

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

Motor Works, LLC,

NO. C 08-03608 JW

Plaintiff,

**ORDER DENYING DEFENDANTS'  
MOTION FOR LEAVE TO FILE MOTION  
FOR RECONSIDERATION**

v.

Safer Technologies, Inc., et al.,

Defendants.

Presently before the Court is Defendants' Motion for Leave to File a Motion for Reconsideration of the Court's Order Granting in Part and Denying In Part Defendants' Motion for Summary Judgment. (hereafter, "Motion," Docket Item No. 47.)

Civil Local Rule 7-9(a) provides as follows:

Before the entry of a judgment adjudicating all of the claims and the rights and liabilities of all the parties in the case, any party may make a motion before a Judge requesting that the Judge grant the party leave to file a motion for reconsideration of any interlocutory order made by that Judge on any ground set forth in Civil L.R. 7-9(b). No party may notice a motion for reconsideration without first obtaining leave of Court to file the motion.

In doing so, the moving party must specifically show the following:

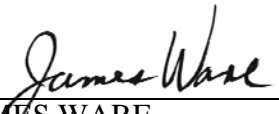
- (1) At the time of the filing the motion for leave, a material difference in fact or law exists from that which was presented to the Court before entry of the interlocutory order for which reconsideration is sought. The party also must show that in the exercise of reasonable diligence the party applying for reconsideration did not know such fact or law at the time of the interlocutory order; or
- (2) The emergence of new material facts or a change of law occurring after the time of such order; or
- (3) A manifest failure by the Court to consider material facts or dispositive legal arguments which were presented to the Court before such interlocutory order.

1 Civ. L.R. 7-9(b). A motion for leave to file a motion for reconsideration may not repeat any oral or  
2 written argument previously made with respect to the interlocutory order that the party now seeks to  
3 have reconsidered. Civ. L.R. 7-9(c). "A party who violates this restriction shall be subject to  
4 appropriate sanctions." Id.

5 Here, the Court finds that the gravamen of Defendants' Motion is that the Court failed to  
6 consider certain facts, and that the Court's analysis was flawed as a result. The Court, however,  
7 finds that Defendants' Motion does not set forth any facts of which the Court was not aware or did  
8 not consider before adjudicating Defendants' Motion. Furthermore, the Court finds that its analysis  
9 regarding Plaintiff's late discovery response is clear in light of the procedural history recited in the  
10 Court's order. (See Order Granting in Part and Denying in Part Defendants' Motion for Summary  
11 Judgment at 3-5, Docket Item No. 45.) Thus, the Court finds that none of the limited grounds for  
12 granting leave to reconsider an interlocutory order are present here.

13 Accordingly, the Court DENIES Defendants' Motion.

14  
15 Dated: December 16, 2009

  
\_\_\_\_\_  
JAMES WARE  
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 James Mitchell Hanavan craigielaw@aol.com  
3 Robert Chipley Weems rcweems@weemslawoffices.com

4 **Dated: December 16, 2009**

**Richard W. Wiekling, Clerk**

6 **By: /s/ JW Chambers**  
7 **Elizabeth Garcia**  
8 **Courtroom Deputy**